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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re NATHON B., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

NATHON B.,

Defendant and Appellant.

F042437

(Super. Ct. No. 01CEJ600121-001)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Timothy A. Kams, Judge.

James H. Dippery, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Jo Graves, Assistant Attorney General, and Robert P. Whitlock for Plaintiff and Respondent.

* Before Vartabedian, Acting P.J., Levy, J. and Cornell, J.

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Nathon B. admitted he committed misdemeanor vandalism. He was placed on probation with several conditions, including performing community service and attending school as required by law. A year later, Nathon had not completed any of the probation conditions. Eighteen months after the admission, Nathon had completed only a portion of his community service and was not attending school.

The juvenile court concluded that Nathon had violated the terms of his probation and sentenced him to 365 days at the Ashjian Treatment Center. Nathon argues there was insufficient evidence that he violated the conditions of probation and the trial court abused its discretion in sentencing him to the Ashjian Treatment Center. We affirm the judgment.

FACTUAL AND PROCEDURAL SUMMARY

On May 10, 2001, Nathon was charged with one count of misdemeanor vandalism. (Pen. Code, § 594, subd. (a).) He admitted the allegation was true at the June 8, 2001, arraignment. At the disposition hearing on June 29, 2001, Nathon was placed on probation and ordered to write a three-page essay, perform 14 days of community service, attend a property offender program, and attend school as required by law.

On May 3, 2002, a Violation of Probation Report and Notice was filed alleging that Nathon failed to complete the 14 days of community service, failed to attend the property offender program, failed to submit an essay, and failed to attend school. Nathon was arraigned on May 9, 2002. A denial was entered and he was detained on supervised home detention. Nathon was ordered to attend school as required by law and warned that a failure to do so could result in placement in custody.

With Nathon's consent, the August 29, 2002, jurisdiction hearing was continued. While in juvenile court that day, Nathon was informed that if he attended school regularly and completed 10 days of community work service before the date of the

continued jurisdiction hearing, the juvenile court would dismiss the violation of probation petition. The hearing was continued to November 14, 2002, to provide Nathon with the opportunity to accomplish these goals.¹ Nathon failed to take advantage of this opportunity.

The only witness to testify at the adjudication hearing was deputy probation officer Jill Reynolds. She testified that Nathon was on her caseload when she was assigned to Edison High School. The Community Service Work Program (CSWP) had been set up for Nathon before she arrived. She noted that Nathon had completed two days of the CSWP but had missed the last four days. Reynolds contacted Nathon's mother and rescheduled the CSWP. Nathon completed five of the eight days that were scheduled at this time. Reynolds also testified that during the 2002 fall semester, Nathon had 46 days of unexcused absences, 7 days where he was tardy, and 4 days where he attended as scheduled.

The juvenile court found true the allegation that Nathon violated probation. At the disposition hearing, Nathon was committed to the Ashjian Treatment Center for 365 days.

DISCUSSION

Nathon asserts that the juvenile court erred in revoking his probation because there was insufficient evidence of a parole violation.

“In considering the sufficiency of the evidence in a juvenile proceeding, the appellate court ‘must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. We must presume in support of the judgment the existence of every fact the trier of fact could reasonably

¹ The hearing was eventually continued to December 5, 2002.

deduce from the evidence [citation] and we must make all reasonable inferences that support the finding of the juvenile court. [Citation.]’ [Citations.]” (*In re Babak S.* (1993) 18 Cal.App.4th 1077, 1088-1089.)

Nathon appears to argue there was not enough pressure put on him by the deputy probation officer to complete the terms of probation. Nathon points out that the deputy probation officer failed to confirm that he was not attending school until 10 days before the jurisdiction hearing. Nathon also points out that the deputy probation officer did not speak directly with him about his failure to complete his community service, instead speaking with his mother.

These attempts to shift responsibility for Nathon’s irresponsibility are unavailing. They also misconstrue the record.

The petition alleging that Nathon violated probation was filed nearly one year after the terms and conditions of probation were imposed. The petition alleged that he failed to comply with any of the terms, e.g., he failed to complete his community service requirements, failed to attend the property offender program, failed to complete his essay, and failed to attend school. Out of an abundance of leniency, the juvenile court offered to dismiss the violation of probation petition if Nathon would simply attend school and complete 10 days of community service, four less than originally required. Nathon was present at both hearings, yet he failed to complete even these most basic requirements. He did not attend school and completed only seven days of community service. It was Nathon’s obligation to ensure he completed both requirements. It was Nathon’s obligation to take affirmative steps to ensure that the obligations were met, even if the

deputy probation officer “dropped the ball.”² It is Nathon who will suffer the consequence for his failure to take responsibility for his own actions.

There was substantial evidence that Nathon violated the terms of his probation. The testimony established that Nathon failed to attend school and failed to complete his 14 days of community service. He had almost 18 months to do so. There was no attempt to explain why the community service could not be completed in this timeframe, nor does it seem likely that one could reasonably exist. The juvenile court could rationally infer that Nathon merely decided that the terms of probation were too bothersome.

We also note that these violations are not “technical violations.” Nathon failed to complete any of the terms of his probation that required affirmative action on his part. There is nothing technical about such nonchalance. These are blatant violations.

Nathon’s reliance on cases addressing probation violations for adults is misplaced. Our Supreme Court has explained that “The similarity between proceedings on probation revocation and those on supplemental petitions in juvenile cases is superficial Neither the purposes nor the consequences of these disparate proceedings are the same.” (*In re Arthur N.* (1976) 16 Cal.3d 226, 236.) Among other things, the court pointed out that while an adult probationer whose probation is revoked may not be subjected to any greater punishment than that permitted for the underlying offense, a ward of the juvenile court “may be ... subjected to increasingly severe and restrictive custody which exceeds that which would have been permissible initially, if he is later found on a supplemental petition to have committed additional acts of misconduct.” (*Id.* at p. 237.) It has also been recognized that “juvenile probation is not, as with an adult, an act of leniency in lieu

² We are not suggesting that the deputy probation officer “dropped the ball” or did anything else improper. We are merely emphasizing that it was Nathon’s responsibility to comply with the terms and conditions of probation.

of statutory punishment; it is an ingredient of a final order for the minor's reformation and rehabilitation. A grant of juvenile probation is not revoked upon sustaining a supplemental petition; rather, the entire underlying order is subject to modification 'as the judge deems meet and proper.' [Citation.]" (*In re Antonio A.* (1990) 225 Cal.App.3d 700, 706.)

We also reject Nathon's argument that the trial court abused its discretion in finding that Nathon violated the terms of his probation. In making this argument, Nathon refers to the portion of Welfare and Institutions Code section 775 that provides the juvenile court with authority to change or modify prior orders as the court deems "meet and proper." We read this provision as applying to the changed terms and conditions, not the circumstances that permit such changes. The proper test in determining whether a violation of probation occurred is the substantial evidence test.

To the extent Nathon is arguing that the new terms imposed on him were an abuse of discretion, we disagree. Nathon was presented with every opportunity to comply with fairly minimal probation terms, and repeatedly failed to do so. When the juvenile court gave Nathon another chance with reduced requirements, he again ignored his obligations. The juvenile court was left with no alternative other than to remove Nathon from the custody of his parent.

DISPOSITION

The disposition order is affirmed.